

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PEGGY HASSELL, Individually, and as : CONSOLIDATED UNDER
Personal Representative of the : MDL 875
Estate of BILLIE L. HASSELL, Deceased :
:
:
v. : E.D. Pa. Civil Action No.
: 2:09-cv-90863-ER
:
THE BUDD COMPANY, et al. :

O R D E R

AND NOW, this 5th day of **April, 2019**, for the reasons set forth in the accompanying Memorandum of Law, it is hereby **ORDERED** that: (1) the Motion of Plaintiff for Leave to File Third Amended Complaint (ECF No. 114) is **DENIED as moot**; (2) Defendants' Motions for Summary Judgment (ECF Nos. 110 & 111) are **GRANTED in part and DENIED in part**;¹ (3) the Motion of

¹ As set forth in an memorandum filed on this day, the Court has concluded that: (1) the negligence and strict liability claims arising from insulation used in connection with pipes originating in the train's locomotive involve "locomotive equipment" and are pre-empted by the LIA; but (2) claims arising from insulation used in connection with pipes that did not originate in the train's locomotive are not "locomotive equipment" and are, therefore, not pre-empted by the LIA; (3) Plaintiff's claims arising from insulation lining that Mr. Hassell described as the "arc chutes" in the floor of the passenger railcars involve "locomotive equipment" and are pre-empted by the LIA; (4) Plaintiff's claims for loss of consortium and punitive damages - as derivative claims - are viable to the same extent as Plaintiff's strict liability and negligence claims; and (5) Plaintiff's claims are not pre-empted by the SAA.

Plaintiff to Exclude Supplemental Expert Report and Testimony of Francis W. Weir, Ph.D. (ECF No. 113) is **DENIED, with leave to refile in the transferor court after remand**; and (4) Defendants' Motions for Judgment on the Pleadings (ECF Nos. 107, 108, 109) are **DENIED**.²

AND IT IS SO ORDERED.

/s/ Eduardo Robreno
EDUARDO C. ROBRENO, J.

² The Court will issue a rule to show cause why the case should not be remanded to the United States District Court for the Southern District of Texas no earlier than **April 22, 2019**.